

REMARKS

In the Office Action mailed November 15, 2007, the Examiner noted that claims 1-38 were pending, and rejected claims 1-38. Claims 1, 5, 11, 16, 22, 23, 25, 26, 29, 30 and 36 have been amended, and, thus, in view of the forgoing claims 1-38 remain pending for reconsideration which is requested. No new matter has been added. The Examiner's rejections and objections are traversed below.

On page 4 of the Action the Examiner objected to the drawings with respect to claims 7, 32, 37 and 38. With respect to claim 7 figure 3 shows shoulder motion arcs, figure 11B shows elbow, wrist and finger arcs and figure 11A shows a combination of two or more arcs. With respect to claim 32, figure 11 shows a finger arc. With respect to claim 37 figure 11B shows alignment to an elbow motion. With respect to claim 38, figure 11B shows alignment to wrist motion. Withdrawal of the objection is requested.

On page 5 the Examiner rejected claims 32, 33, 37 and 38 for failure to provide a written description. As set forth above these claims are shown by the figures noted above and the drawings are part of the written description. The Examiner is also requested to note the "one of" text of originally filed claim 7. The original claims are also of the written description. Withdrawal of the rejection is requested.

On page 6 the Examiner rejected claims 7, 15 and 16 as indefinite. With respect to claim 7, claim 5 has been amended for consistency. Claims 15 and 16 have also been amended. Withdrawal of the rejection is requested.

On page 8 the Examiner rejects claim 32 as obvious "since the applicant does not describe any specific advantage to this alignment in the specification, it would have been obvious." This is clearly hindsight reasoning on the part of the Examiner. Applicants are not required to describe advantages, only "The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same, and shall set forth the best mode contemplated by the inventor of carrying out his invention." It appears that the Examiner may be instituting a new requirement that all advantages of a claimed invention must be described in the specification before an invention can be non-obvious. If so, this is not a requirement found in the law or rules. As the Examiner admits Anderson's teaches nothing about a control zone aligned to independent finger motion. Nor has the Examiner asserted that any other prior art teaches or suggests such.

There must be some teaching or suggestion of a claimed feature in the prior art before such can be held to be obvious.

Claim 33, dependent on claim 32, was also rejected and is patentable over Anderson for the reasons discussed above.

Withdrawal of the rejection of claim 32 and 33 is requested.

Page 10 of the Office Action rejects claims 1-14, 17-21, 23, 25, 29-31 and 34-36 under 35 U.S.C. § 103 over Anderson and Miettinen.

The Examiner uses Anderson for the alleged arc shaped control zone, graphic and alignment to a natural user motion, the wrist motion and the tablet PC and notes that Anderson says nothing about users elbow rotation. The Examiner uses Miettinen for an elbow motion.

The Examiner points to figures 5a and 5b of Anderson for the arc shaped control zone. Figures 5a and 5b show the graphics associated with the disc menu 53 that displays icons for each menu item. Even though the icons are arranged around the perimeter of the disk menu 53, this arrangement says nothing about the shape of the underlying control zones for each of the icons. These underlying control zones could be square shaped, like those for traditional pull down menus. Anderson just does not describe the shape of the control zones. That is, Anderson says nothing about "an arc shaped control zone" as recited in claim 1. For this reason, it is requested that the rejection of claim 1 be withdrawn.

Claim 1 also calls for "the arc shaped control zone aligned to a natural user motion". In Anderson the motions of a user are on table with a mouse or on a digitizing tablet with a stylus or a touch pad sitting on the table top. The natural motion is horizontal and parallel to the table top surface. However, the disk menu 30 of Anderson is displayed on a computer display sitting on the table top where the display surface is vertical and the disk menu is oriented vertically on the display. The vertically oriented menu 30 is not aligned with the natural tabletop horizontal motion by the user but rather perpendicular to it. For this additional reason, it is requested that the rejection of claim 1 be withdrawn.

Further, claim 1 calls for the natural motion to be "a compound motion of a rotation of the user elbow and rotation of a user wrist". The Examiner acknowledges that Anderson does not teach "a natural user motion produced by rotation of a user elbow or rotation of the user elbow and rotation of a user wrist". Miettinen does not have a compound motion but rather "the user bends his elbow and moves his hand with the elbow" (see Miettinen, paragraph 66). For this additional reason, withdrawal of the rejection of claim 1 is requested.

Claims 11, 16, 23, 25, 29 and 36 also emphasize one or more of the arc shaped control zone, the alignment of the arc to a natural motion of the user and the compound elbow and wrist motion. For the above discussed reasons these claims are patentable over the prior art.

Claim 34 calls for motion about a shoulder. The Examiner acknowledged that Miettinen has a motion where the arms are straight. The Examiner asserts this is a shoulder based motion. Miettinen does not say that this is a shoulder motion and the Examiner is reading this shoulder motion into Miettinen using hindsight. The motion could just as well be a spinal rotation motion or even a motion where the user turns with their feet. Withdrawal of the rejection of claim 34 is requested.

Page 22 of the Office Action rejects claims 26 and dependent claim 28 under 35 U.S.C. § 103 over Ono and Miettinen. Ono describes "First, each individual is caused to indicate one point on the screen as shown in FIG. 7. Then, the wrist is caused to indicate an end point to which it can move without causing unnatural force, and the locus traced by the pen point is fitted to an arc, thereby obtaining an arc along which the menu is to be displayed" while Miettinen has a motion where "the user bends his elbow and moves his hand with the elbow". No compound motion is produced or suggested with this combination much less one where it is "a compound motion of an arm about an elbow of the user and a hand about a wrist of the user". Withdrawal of the rejection of claim 26 is requested.

Claim 28 calls for the arc to be based on the strokes of plural users ("the arc is determined from the strokes of the plural users"). The Examiner points to col. 3, lines 16-24 of Ono for this. This text states:

Since the locus for tracing the pull-down menu with a pen without causing an unnatural force depends on an individual calibration for each individual is essential. First, each individual is caused to indicate one point on the screen as shown in FIG. 7. Then, the wrist is caused to indicate an end point to which it can move without causing unnatural force, and the locus traced by the pen point is fitted to an arc, thereby obtaining an arc along which the menu is to be displayed.

This text is about a single user with an arc corresponding to that single user. There would be plural users and corresponding plural arcs in the system of Ono. Ono says nothing about the strokes of plural users being used to determine the arc. Withdrawal of the rejection of claim 28 is requested.

Page 23 of the Office Action rejects claim 24 under 35 U.S.C. § 103 over Anderson, Miettinen and Ono. The Examiner asserts that Ono teaches determining whether there is a custom arc specified and points to col. 3, lines 16-24. This text is set forth above. This text says

nothing about performing a "determining" operation and it appears that user is forced ("each individual is caused"). Withdrawal of the rejection of claim 24 is requested.

Page 25 of the Office Action rejects claim 22 under 35 U.S.C. § 103 over Anderson, Miettinen and Keely. Claim 22 also emphasizes a compound motion that Anderson and Miettinen do not provide and Keely adds nothing to this.

Further this claim calls for a counter arc intersecting at 90 degrees which the Examiner acknowledges Anderson and Miettinen do not teach. While Keely shows menu controls in a fan shape around the pointer, there is no discussion in Keely of a 90 degree intersecting counter arc. The Examiner asserts that when Keely pops up the natural motion arc and the fan shaped menu "therefore intersect at a 90 degree angle". It is submitted that the Examiner is using hindsight in this analysis. The natural motion arc and the fan shaped menu arc of Keely may not intersect at all when a pop-up occurs. And there is no requirement that they intersect at 90 degrees anywhere suggested in the prior art.

Withdrawal of the rejection of claim 22 for these reasons is requested.

It is submitted that the claims satisfy the requirements of 35 U.S.C. 112. It is further submitted that the claims are not taught, disclosed or suggested by the prior art. The claims are therefore in a condition suitable for allowance. An early Notice of Allowance is requested.

If any further fees, other than and except for the issue fee, are necessary with respect to this paper, the U.S.P.T.O. is requested to obtain the same from deposit account number 19-3935.

Respectfully submitted,

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